

JONATHAN M. HOUGHTON, N.J. Bar No. 369652021  
Pacific Legal Foundation  
3100 Clarendon Blvd., Suite 1000  
Arlington, Virginia 22201  
Telephone: (202) 888-6881  
JHoughton@pacificlegal.org

DAMIEN M. SCHIFF, Cal. Bar No. 235101\*  
MICHAEL POON, Cal. Bar No. 320156\*  
ALEXANDER R. KHOURY, Cal. Bar No. 346378\*  
Pacific Legal Foundation  
555 Capitol Mall, Suite 1290  
Sacramento, California 95814  
Telephone: (916) 419-7111  
DSchiff@pacificlegal.org  
MPoon@pacificlegal.org  
AKhoury@pacificlegal.org  
\* *Pro Hac Vice*  
*Counsel for Plaintiffs*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

RAYMOND LOFSTAD and GUS  
LOVGREN,

Plaintiffs,

v.

GINA RAIMONDO, in her official  
capacity as Secretary of the United States  
Department of Commerce; JANET COIT,  
in her official capacity as Assistant  
Administrator for the National Marine  
Fisheries Service; and NATIONAL  
MARINE FISHERIES SERVICE,

Defendants.

No. 3:22-cv-07360-RK-TJB

**PLAINTIFFS' MOTION TO  
EXPEDITE PROCEEDINGS**

Courtroom 4E  
Judge: Robert Kirsch  
Magistrate: Tonianne J. Bongiovanni  
Motion Day: August 7, 2023

Plaintiffs Raymond Lofstad and Gus Lovgren have filed a petition challenging the issuance by the Secretary of Commerce, through her delegate the National Marine Fisheries Service, of a final rule (“Rule”) implementing Amendment 22 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan. 87 Fed. Reg. 68,925-01 (Nov. 17, 2022).

Plaintiffs bring their challenge under the judicial review provision of the Magnuson-Stevens Fishery Conservation and Management Act (“Act”), 16 U.S.C. § 1855(f), which provides in pertinent part that, “[u]pon a motion by the person who files a petition under this subsection,” the court “shall assign the matter for hearing at the earliest possible date and shall expedite the matter in every possible way.” *Id.* § 1855(f)(4).

Congress provides petitioners expedited review for challenges brought under the Act as a tradeoff for its unique disallowance of preliminary injunctive relief. *Blue Water Fishermen’s Ass’n v. Nat’l Marine Fisheries Serv.*, 158 F. Supp. 2d 118, 123–24 (D. Mass. 2001) (denying plaintiffs’ motion for preliminary injunction but noting that plaintiffs were “not without immediate recourse, as the Magnuson-Stevens Act trades preliminary relief for expedited review”) (citing 16 U.S.C. § 1855(f)(4)); *see* 16 U.S.C. § 1855(f)(1)(A) (barring preliminary relief otherwise available under 5 U.S.C. § 705). Here, given that Plaintiffs were not allowed to seek emergency relief, yet they are continuously harmed by the Rule’s quota reductions of black sea bass and summer flounder, Lovgren Decl.

(Dkt. 33-3) ¶¶ 33, 27; Lofstad Decl. (Dkt. 33-2) ¶¶ 6, 32–34, expedited treatment is appropriate.

The briefing on Plaintiffs’ motion for summary judgment, Docket No. 33, is now complete. As for Defendants’ cross-motion, all that remains to be filed is the government’s reply. Plaintiffs therefore respectfully request that, in accordance with the Act, the Court expedite its ruling on these motions to the “earliest possible date,” prioritizing these motions before other civil matters before the Court. *See, e.g., Loper Bright Enterprises, Inc. v. Raimondo*, 544 F. Supp. 3d 82, 98 (D.D.C. 2021) (noting the court granted Plaintiffs’ unopposed motion to expedite the case “in every possible way,” pursuant to the MSA (simplified)); 16 U.S.C. § 1855(f)(4). Plaintiffs do not seek to alter the briefing schedule, which was set by the Court in a prior order. Defendants do not oppose this motion.

DATED: June 29, 2023.

Respectfully submitted,

DAMIEN M. SCHIFF\*  
Cal. Bar No. 235101  
MICHAEL POON\*  
Cal. Bar No. 320156  
ALEXANDER R. KHOURY\*  
Cal. Bar No. 346378  
Pacific Legal Foundation  
555 Capitol Mall, Suite 1290  
Sacramento, California 95814  
Telephone: (916) 419-7111  
DSchiff@pacifical.org  
MPoon@pacifical.org  
AKhoury@pacifical.org

/s/ Jonathan M. Houghton  
JONATHAN M. HOUGHTON  
N.J. Bar No. 369652021  
Pacific Legal Foundation  
3100 Clarendon Blvd., Suite 1000  
Arlington, Virginia 22201  
Telephone: (202) 888-6881  
JHoughton@pacifical.org

\* *Pro Hac Vice Pending*

*Counsel for Plaintiffs*

**Certificate of Service**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the District of New Jersey by using the CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Jonathan M. Houghton  
JONATHAN M. HOUGHTON